



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0386

Introduced 2/7/2007, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

725 ILCS 5/104-17	from Ch. 38, par. 104-17
725 ILCS 5/104-20	from Ch. 38, par. 104-20
725 ILCS 5/104-31	from Ch. 38, par. 104-31
730 ILCS 5/5-2-4	from Ch. 38, par. 1005-2-4

Amends the Code of Criminal Procedure of 1963 relating to defendants found unfit to stand trial. Provides that the clerk of the circuit court shall transmit to the Department, agency, or institution, if any, to which the defendant is remanded for treatment a copy of the arrest report, criminal charges, arrest record, jail record, and the report of the defendant's mental or physical disability and likelihood of attaining fitness. Provides that if the court receives a report from the supervisor of the defendant's treatment that he or she believes that the defendant has attained fitness, the defendant shall be returned to the county jail. Provides that whenever the court receives a report from the supervisor of the defendant's treatment recommending the defendant for any off-grounds or unsupervised on-grounds privileges, or placement in a non-secure setting, the court shall set the matter for a first hearing within 21 days unless good cause is demonstrated why the hearing cannot be held. Amends the Unified Code of Corrections relating to a defendant found not guilty by reason of insanity. Provides that with the court order for evaluation shall be sent a copy of the arrest report, criminal charges, arrest record, jail record, and any report of the defendant's psychiatric evaluation. Effective immediately.

LRB095 04443 RLC 24488 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 104-17, 104-20, and 104-31 as
6 follows:

7 (725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

8 Sec. 104-17. Commitment for Treatment; Treatment Plan.

9 (a) If the defendant is eligible to be or has been released
10 on bail or on his own recognizance, the court shall select the
11 least physically restrictive form of treatment therapeutically
12 appropriate and consistent with the treatment plan.

13 (b) If the defendant's disability is mental, the court may
14 order him placed for treatment in the custody of the Department
15 of Human Services, or the court may order him placed in the
16 custody of any other appropriate public or private mental
17 health facility or treatment program which has agreed to
18 provide treatment to the defendant. If the defendant is placed
19 in the custody of the Department of Human Services, the
20 defendant shall be placed in a secure setting unless the court
21 determines that there are compelling reasons why such placement
22 is not necessary. During the period of time required to
23 determine the appropriate placement the defendant shall remain

1 in jail. Upon completion of the placement process, the sheriff
2 shall be notified and shall transport the defendant to the
3 designated facility. The placement may be ordered either on an
4 inpatient or an outpatient basis.

5 (c) If the defendant's disability is physical, the court
6 may order him placed under the supervision of the Department of
7 Human Services which shall place and maintain the defendant in
8 a suitable treatment facility or program, or the court may
9 order him placed in an appropriate public or private facility
10 or treatment program which has agreed to provide treatment to
11 the defendant. The placement may be ordered either on an
12 inpatient or an outpatient basis.

13 (d) The clerk of the circuit court shall transmit to the
14 Department, agency or institution, if any, to which the
15 defendant is remanded for treatment, the following:

16 (1) a certified copy of the order to undergo treatment;

17 (2) the county and municipality in which the offense
18 was committed;

19 (3) the county and municipality in which the arrest
20 took place; ~~and~~

21 (4) a copy of the arrest report, criminal charges,
22 arrest record, jail record, and the report prepared under
23 Section 104-15; and

24 (5) ~~(4)~~ all additional matters which the Court directs
25 the clerk to transmit.

26 (e) Within 30 days of entry of an order to undergo

1 treatment, the person supervising the defendant's treatment
2 shall file with the court, the State, and the defense a report
3 assessing the facility's or program's capacity to provide
4 appropriate treatment for the defendant and indicating his
5 opinion as to the probability of the defendant's attaining
6 fitness within a period of one year from the date of the
7 finding of unfitness. If the report indicates that there is a
8 substantial probability that the defendant will attain fitness
9 within the time period, the treatment supervisor shall also
10 file a treatment plan which shall include:

11 (1) A diagnosis of the defendant's disability;

12 (2) A description of treatment goals with respect to
13 rendering the defendant fit, a specification of the
14 proposed treatment modalities, and an estimated timetable
15 for attainment of the goals;

16 (3) An identification of the person in charge of
17 supervising the defendant's treatment.

18 (Source: P.A. 89-507, eff. 7-1-97.)

19 (725 ILCS 5/104-20) (from Ch. 38, par. 104-20)

20 Sec. 104-20. Ninety-Day Hearings; Continuing Treatment.)

21 (a) Upon entry or continuation of any order to undergo
22 treatment, the court shall set a date for hearing to reexamine
23 the issue of the defendant's fitness not more than 90 days
24 thereafter. In addition, whenever the court receives a report
25 from the supervisor of the defendant's treatment pursuant to

1 subparagraph (2) or (3) of paragraph (a) of Section 104-18, the
2 court shall forthwith set the matter for a first hearing within
3 21 days unless good cause is demonstrated why the hearing
4 cannot be held. If the court receives a report from the
5 supervisor of the defendant's treatment pursuant to
6 subparagraph (2) of paragraph (a) of Section 104-18, the
7 defendant shall be returned to the county jail. On the date set
8 or upon conclusion of the matter then pending before it, the
9 court, sitting without a jury, shall conduct a hearing, unless
10 waived by the defense, and shall determine:

11 (1) Whether the defendant is fit to stand trial or to
12 plead; and if not,

13 (2) Whether the defendant is making progress under
14 treatment toward attainment of fitness within one year from
15 the date of the original finding of unfitness.

16 (b) If the court finds the defendant to be fit pursuant to
17 this Section, the court shall set the matter for trial;
18 provided that if the defendant is in need of continued care or
19 treatment and the supervisor of the defendant's treatment
20 agrees to continue to provide it, the court may enter any order
21 it deems appropriate for the continued care or treatment of the
22 defendant by the facility or program pending the conclusion of
23 the criminal proceedings.

24 (c) If the court finds that the defendant is still unfit
25 but that he is making progress toward attaining fitness, the
26 court may continue or modify its original treatment order

1 entered pursuant to Section 104-17.

2 (d) If the court finds that the defendant is still unfit
3 and that he is not making progress toward attaining fitness
4 such that there is not a substantial probability that he will
5 attain fitness within one year from the date of the original
6 finding of unfitness, the court shall proceed pursuant to
7 Section 104-23. However, if the defendant is in need of
8 continued care and treatment and the supervisor of the
9 defendant's treatment agrees to continue to provide it, the
10 court may enter any order it deems appropriate for the
11 continued care or treatment by the facility or program pending
12 the conclusion of the criminal proceedings.

13 (Source: P.A. 94-191, eff. 7-12-05.)

14 (725 ILCS 5/104-31) (from Ch. 38, par. 104-31)

15 Sec. 104-31. No defendant placed in a secure setting of the
16 Department of Human Services pursuant to the provisions of
17 Sections 104-17, 104-25, or 104-26 shall be permitted outside
18 the facility's housing unit unless escorted or accompanied by
19 personnel of the Department of Human Services. Any defendant
20 placed in a secure setting pursuant to this Section,
21 transported to court hearings or other necessary appointments
22 off facility grounds by personnel of the Department of Human
23 Services, may be placed in security devices or otherwise
24 secured during the period of transportation to assure secure
25 transport of the defendant and the safety of Department of

1 Human Services personnel and others. These security measures
2 shall not constitute restraint as defined in the Mental Health
3 and Developmental Disabilities Code. Nor shall such defendant
4 be permitted any off-grounds privileges, either with or without
5 escort by personnel of the Department of Human Services, or any
6 unsupervised on-ground privileges, unless such off-grounds or
7 unsupervised on-grounds privileges have been approved by
8 specific court order, which order may include such conditions
9 on the defendant as the court may deem appropriate and
10 necessary to reasonably assure the defendant's satisfactory
11 progress in treatment and the safety of the defendant or
12 others. Whenever the court receives a report from the
13 supervisor of the defendant's treatment recommending the
14 defendant for any off-grounds or unsupervised on-grounds
15 privileges, or placement in a non-secure setting, the court
16 shall set the matter for a first hearing within 21 days unless
17 good cause is demonstrated why the hearing cannot be held.

18 (Source: P.A. 89-507, eff. 7-1-97; 90-105, eff. 7-11-97.)

19 Section 10. The Unified Code of Corrections is amended by
20 changing Section 5-2-4 as follows:

21 (730 ILCS 5/5-2-4) (from Ch. 38, par. 1005-2-4)

22 Sec. 5-2-4. Proceedings after Acquittal by Reason of
23 Insanity.

24 (a) After a finding or verdict of not guilty by reason of

1 insanity under Sections 104-25, 115-3 or 115-4 of The Code of
2 Criminal Procedure of 1963, the defendant shall be ordered to
3 the Department of Human Services for an evaluation as to
4 whether he is in need of mental health services. The order
5 shall specify whether the evaluation shall be conducted on an
6 inpatient or outpatient basis. If the evaluation is to be
7 conducted on an inpatient basis, the defendant shall be placed
8 in a secure setting unless the Court determines that there are
9 compelling reasons why such placement is not necessary. With
10 the court order for evaluation shall be sent a copy of the
11 arrest report, criminal charges, arrest record, jail record,
12 and any report prepared under Section 115-6 of the Code of
13 Criminal Procedure of 1963. After the evaluation and during the
14 period of time required to determine the appropriate placement,
15 the defendant shall remain in jail. Upon completion of the
16 placement process the sheriff shall be notified and shall
17 transport the defendant to the designated facility.

18 The Department shall provide the Court with a report of its
19 evaluation within 30 days of the date of this order. The Court
20 shall hold a hearing as provided under the Mental Health and
21 Developmental Disabilities Code to determine if the individual
22 is: (a) in need of mental health services on an inpatient
23 basis; (b) in need of mental health services on an outpatient
24 basis; (c) a person not in need of mental health services. The
25 Court shall enter its findings.

26 If the defendant is found to be in need of mental health

1 services on an inpatient care basis, the Court shall order the
2 defendant to the Department of Human Services. The defendant
3 shall be placed in a secure setting unless the Court determines
4 that there are compelling reasons why such placement is not
5 necessary. Such defendants placed in a secure setting shall not
6 be permitted outside the facility's housing unit unless
7 escorted or accompanied by personnel of the Department of Human
8 Services or with the prior approval of the Court for
9 unsupervised on-grounds privileges as provided herein. Any
10 defendant placed in a secure setting pursuant to this Section,
11 transported to court hearings or other necessary appointments
12 off facility grounds by personnel of the Department of Human
13 Services, shall be placed in security devices or otherwise
14 secured during the period of transportation to assure secure
15 transport of the defendant and the safety of Department of
16 Human Services personnel and others. These security measures
17 shall not constitute restraint as defined in the Mental Health
18 and Developmental Disabilities Code. If the defendant is found
19 to be in need of mental health services, but not on an
20 inpatient care basis, the Court shall conditionally release the
21 defendant, under such conditions as set forth in this Section
22 as will reasonably assure the defendant's satisfactory
23 progress and participation in treatment or rehabilitation and
24 the safety of the defendant and others. If the Court finds the
25 person not in need of mental health services, then the Court
26 shall order the defendant discharged from custody.

1 (a-1) ~~(1)~~ Definitions. ~~+~~ For the purposes of this Section:

2 (A) (Blank).

3 (B) "In need of mental health services on an inpatient
4 basis" means: a defendant who has been found not guilty by
5 reason of insanity but who due to mental illness is
6 reasonably expected to inflict serious physical harm upon
7 himself or another and who would benefit from inpatient
8 care or is in need of inpatient care.

9 (C) "In need of mental health services on an outpatient
10 basis" means: a defendant who has been found not guilty by
11 reason of insanity who is not in need of mental health
12 services on an inpatient basis, but is in need of
13 outpatient care, drug and/or alcohol rehabilitation
14 programs, community adjustment programs, individual,
15 group, or family therapy, or chemotherapy.

16 (D) "Conditional Release" means: the release from
17 either the custody of the Department of Human Services or
18 the custody of the Court of a person who has been found not
19 guilty by reason of insanity under such conditions as the
20 Court may impose which reasonably assure the defendant's
21 satisfactory progress in treatment or habilitation and the
22 safety of the defendant and others. The Court shall
23 consider such terms and conditions which may include, but
24 need not be limited to, outpatient care, alcoholic and drug
25 rehabilitation programs, community adjustment programs,
26 individual, group, family, and chemotherapy, random

1 testing to ensure the defendant's timely and continuous
2 taking of any medicines prescribed to control or manage his
3 or her conduct or mental state, and periodic checks with
4 the legal authorities and/or the Department of Human
5 Services. The Court may order as a condition of conditional
6 release that the defendant not contact the victim of the
7 offense that resulted in the finding or verdict of not
8 guilty by reason of insanity or any other person. The Court
9 may order the Department of Human Services to provide care
10 to any person conditionally released under this Section.
11 The Department may contract with any public or private
12 agency in order to discharge any responsibilities imposed
13 under this Section. The Department shall monitor the
14 provision of services to persons conditionally released
15 under this Section and provide periodic reports to the
16 Court concerning the services and the condition of the
17 defendant. Whenever a person is conditionally released
18 pursuant to this Section, the State's Attorney for the
19 county in which the hearing is held shall designate in
20 writing the name, telephone number, and address of a person
21 employed by him or her who shall be notified in the event
22 that either the reporting agency or the Department decides
23 that the conditional release of the defendant should be
24 revoked or modified pursuant to subsection (i) of this
25 Section. Such conditional release shall be for a period of
26 five years. However, the defendant, the person or facility

1 rendering the treatment, therapy, program or outpatient
2 care, the Department, or the State's Attorney may petition
3 the Court for an extension of the conditional release
4 period for an additional 5 years. Upon receipt of such a
5 petition, the Court shall hold a hearing consistent with
6 the provisions of ~~this~~ paragraph (a), this paragraph (a-1),
7 and paragraph (f) of this Section, shall determine whether
8 the defendant should continue to be subject to the terms of
9 conditional release, and shall enter an order either
10 extending the defendant's period of conditional release
11 for an additional 5 year period or discharging the
12 defendant. Additional 5-year periods of conditional
13 release may be ordered following a hearing as provided in
14 this Section. However, in no event shall the defendant's
15 period of conditional release continue beyond the maximum
16 period of commitment ordered by the Court pursuant to
17 paragraph (b) of this Section. These provisions for
18 extension of conditional release shall only apply to
19 defendants conditionally released on or after August 8,
20 2003 ~~the effective date of this amendatory Act of the 93rd~~
21 ~~General Assembly~~. However the extension provisions of
22 Public Act 83-1449 apply only to defendants charged with a
23 forcible felony.

24 (E) "Facility director" means the chief officer of a
25 mental health or developmental disabilities facility or
26 his or her designee or the supervisor of a program of

1 treatment or habilitation or his or her designee.

2 "Designee" may include a physician, clinical psychologist,
3 social worker, nurse, or clinical professional counselor.

4 (b) If the Court finds the defendant in need of mental
5 health services on an inpatient basis, the admission,
6 detention, care, treatment or habilitation, treatment plans,
7 review proceedings, including review of treatment and
8 treatment plans, and discharge of the defendant after such
9 order shall be under the Mental Health and Developmental
10 Disabilities Code, except that the initial order for admission
11 of a defendant acquitted of a felony by reason of insanity
12 shall be for an indefinite period of time. Such period of
13 commitment shall not exceed the maximum length of time that the
14 defendant would have been required to serve, less credit for
15 good behavior as provided in Section 5-4-1 of the Unified Code
16 of Corrections, before becoming eligible for release had he
17 been convicted of and received the maximum sentence for the
18 most serious crime for which he has been acquitted by reason of
19 insanity. The Court shall determine the maximum period of
20 commitment by an appropriate order. During this period of time,
21 the defendant shall not be permitted to be in the community in
22 any manner, including but not limited to off-grounds
23 privileges, with or without escort by personnel of the
24 Department of Human Services, unsupervised on-grounds
25 privileges, discharge or conditional or temporary release,
26 except by a plan as provided in this Section. In no event shall

1 a defendant's continued unauthorized absence be a basis for
2 discharge. Not more than 30 days after admission and every 60
3 days thereafter so long as the initial order remains in effect,
4 the facility director shall file a treatment plan report in
5 writing with the court and forward a copy of the treatment plan
6 report to the clerk of the court, the State's Attorney, and the
7 defendant's attorney, if the defendant is represented by
8 counsel, or to a person authorized by the defendant under the
9 Mental Health and Developmental Disabilities Confidentiality
10 Act to be sent a copy of the report. The report shall include
11 an opinion as to whether the defendant is currently in need of
12 mental health services on an inpatient basis or in need of
13 mental health services on an outpatient basis. The report shall
14 also summarize the basis for those findings and provide a
15 current summary of the following items from the treatment plan:
16 (1) an assessment of the defendant's treatment needs, (2) a
17 description of the services recommended for treatment, (3) the
18 goals of each type of element of service, (4) an anticipated
19 timetable for the accomplishment of the goals, and (5) a
20 designation of the qualified professional responsible for the
21 implementation of the plan. The report may also include
22 unsupervised on-grounds privileges, off-grounds privileges
23 (with or without escort by personnel of the Department of Human
24 Services), home visits and participation in work programs, but
25 only where such privileges have been approved by specific court
26 order, which order may include such conditions on the defendant

1 as the Court may deem appropriate and necessary to reasonably
2 assure the defendant's satisfactory progress in treatment and
3 the safety of the defendant and others.

4 (c) Every defendant acquitted of a felony by reason of
5 insanity and subsequently found to be in need of mental health
6 services shall be represented by counsel in all proceedings
7 under this Section and under the Mental Health and
8 Developmental Disabilities Code.

9 (1) The Court shall appoint as counsel the public
10 defender or an attorney licensed by this State.

11 (2) Upon filing with the Court of a verified statement
12 of legal services rendered by the private attorney
13 appointed pursuant to paragraph (1) of this subsection, the
14 Court shall determine a reasonable fee for such services.
15 If the defendant is unable to pay the fee, the Court shall
16 enter an order upon the State to pay the entire fee or such
17 amount as the defendant is unable to pay from funds
18 appropriated by the General Assembly for that purpose.

19 (d) When the facility director determines that:

20 (1) the defendant is no longer in need of mental health
21 services on an inpatient basis; and

22 (2) the defendant may be conditionally released
23 because he or she is still in need of mental health
24 services or that the defendant may be discharged as not in
25 need of any mental health services; or

26 (3) the defendant no longer requires placement in a

1 secure setting;
2 the facility director shall give written notice to the Court,
3 State's Attorney and defense attorney. Such notice shall set
4 forth in detail the basis for the recommendation of the
5 facility director, and specify clearly the recommendations, if
6 any, of the facility director, concerning conditional release.
7 Any recommendation for conditional release shall include an
8 evaluation of the defendant's need for psychotropic
9 medication, what provisions should be made, if any, to ensure
10 that the defendant will continue to receive psychotropic
11 medication following discharge, and what provisions should be
12 made to assure the safety of the defendant and others in the
13 event the defendant is no longer receiving psychotropic
14 medication. Within 30 days of the notification by the facility
15 director, the Court shall set a hearing and make a finding as
16 to whether the defendant is:

- 17 (i) (blank); or
18 (ii) in need of mental health services in the form of
19 inpatient care; or
20 (iii) in need of mental health services but not subject
21 to inpatient care; or
22 (iv) no longer in need of mental health services; or
23 (v) no longer requires placement in a secure setting.

24 Upon finding by the Court, the Court shall enter its
25 findings and such appropriate order as provided in subsections
26 ~~subsection~~ (a) and (a-1) of this Section.

1 (e) A defendant admitted pursuant to this Section, or any
2 person on his behalf, may file a petition for treatment plan
3 review, transfer to a non-secure setting within the Department
4 of Human Services or discharge or conditional release under the
5 standards of this Section in the Court which rendered the
6 verdict. Upon receipt of a petition for treatment plan review,
7 transfer to a non-secure setting or discharge or conditional
8 release, the Court shall set a hearing to be held within 120
9 days. Thereafter, no new petition may be filed for 180 days
10 without leave of the Court.

11 (f) The Court shall direct that notice of the time and
12 place of the hearing be served upon the defendant, the facility
13 director, the State's Attorney, and the defendant's attorney.
14 If requested by either the State or the defense or if the Court
15 feels it is appropriate, an impartial examination of the
16 defendant by a psychiatrist or clinical psychologist as defined
17 in Section 1-103 of the Mental Health and Developmental
18 Disabilities Code who is not in the employ of the Department of
19 Human Services shall be ordered, and the report considered at
20 the time of the hearing.

21 (g) The findings of the Court shall be established by clear
22 and convincing evidence. The burden of proof and the burden of
23 going forth with the evidence rest with the defendant or any
24 person on the defendant's behalf when a hearing is held to
25 review a petition filed by or on behalf of the defendant. The
26 evidence shall be presented in open Court with the right of

1 confrontation and cross-examination. Such evidence may
2 include, but is not limited to:

3 (1) whether the defendant appreciates the harm caused
4 by the defendant to others and the community by his or her
5 prior conduct that resulted in the finding of not guilty by
6 reason of insanity;

7 (2) Whether the person appreciates the criminality of
8 conduct similar ~~similar~~ to the conduct for which he or she
9 was originally charged in this matter;

10 (3) the current state of the defendant's illness;

11 (4) what, if any, medications the defendant is taking
12 to control his or her mental illness;

13 (5) what, if any, adverse physical side effects the
14 medication has on the defendant;

15 (6) the length of time it would take for the
16 defendant's mental health to deteriorate if the defendant
17 stopped taking prescribed medication;

18 (7) the defendant's history or potential for alcohol
19 and drug abuse;

20 (8) the defendant's past criminal history;

21 (9) any specialized physical or medical needs of the
22 defendant;

23 (10) any family participation or involvement expected
24 upon release and what is the willingness and ability of the
25 family to participate or be involved;

26 (11) the defendant's potential to be a danger to

1 himself, herself, or others; and

2 (12) any other factor or factors the Court deems
3 appropriate.

4 (h) Before the court orders that the defendant be
5 discharged or conditionally released, it shall order the
6 facility director to establish a discharge plan that includes a
7 plan for the defendant's shelter, support, and medication. If
8 appropriate, the court shall order that the facility director
9 establish a program to train the defendant in self-medication
10 under standards established by the Department of Human
11 Services. If the Court finds, consistent with the provisions of
12 this Section, that the defendant is no longer in need of mental
13 health services it shall order the facility director to
14 discharge the defendant. If the Court finds, consistent with
15 the provisions of this Section, that the defendant is in need
16 of mental health services, and no longer in need of inpatient
17 care, it shall order the facility director to release the
18 defendant under such conditions as the Court deems appropriate
19 and as provided by this Section. Such conditional release shall
20 be imposed for a period of 5 years as provided in paragraph ~~(1)~~
21 (D) of subsection (a-1) ~~(a)~~ and shall be subject to later
22 modification by the Court as provided by this Section. If the
23 Court finds consistent with the provisions in this Section that
24 the defendant is in need of mental health services on an
25 inpatient basis, it shall order the facility director not to
26 discharge or release the defendant in accordance with paragraph

1 (b) of this Section.

2 (i) If within the period of the defendant's conditional
3 release the State's Attorney determines that the defendant has
4 not fulfilled the conditions of his or her release, the State's
5 Attorney may petition the Court to revoke or modify the
6 conditional release of the defendant. Upon the filing of such
7 petition the defendant may be remanded to the custody of the
8 Department, or to any other mental health facility designated
9 by the Department, pending the resolution of the petition.
10 Nothing in this Section shall prevent the emergency admission
11 of a defendant pursuant to Article VI of Chapter III of the
12 Mental Health and Developmental Disabilities Code or the
13 voluntary admission of the defendant pursuant to Article IV of
14 Chapter III of the Mental Health and Developmental Disabilities
15 Code. If the Court determines, after hearing evidence, that the
16 defendant has not fulfilled the conditions of release, the
17 Court shall order a hearing to be held consistent with the
18 provisions of paragraph (f) and (g) of this Section. At such
19 hearing, if the Court finds that the defendant is in need of
20 mental health services on an inpatient basis, it shall enter an
21 order remanding him or her to the Department of Human Services
22 or other facility. If the defendant is remanded to the
23 Department of Human Services, he or she shall be placed in a
24 secure setting unless the Court determines that there are
25 compelling reasons that such placement is not necessary. If the
26 Court finds that the defendant continues to be in need of

1 mental health services but not on an inpatient basis, it may
2 modify the conditions of the original release in order to
3 reasonably assure the defendant's satisfactory progress in
4 treatment and his or her safety and the safety of others in
5 accordance with the standards established in paragraph ~~(1)~~ (D)
6 of subsection (a-1) ~~(a)~~. Nothing in this Section shall limit a
7 Court's contempt powers or any other powers of a Court.

8 (j) An order of admission under this Section does not
9 affect the remedy of habeas corpus.

10 (k) In the event of a conflict between this Section and the
11 Mental Health and Developmental Disabilities Code or the Mental
12 Health and Developmental Disabilities Confidentiality Act, the
13 provisions of this Section shall govern.

14 (l) This amendatory Act shall apply to all persons who have
15 been found not guilty by reason of insanity and who are
16 presently committed to the Department of Mental Health and
17 Developmental Disabilities (now the Department of Human
18 Services).

19 (m) The Clerk of the Court shall, after the entry of an
20 order of transfer to a non-secure setting of the Department of
21 Human Services or discharge or conditional release, transmit a
22 certified copy of the order to the Department of Human
23 Services, and the sheriff of the county from which the
24 defendant was admitted. The Clerk of the Court shall also
25 transmit a certified copy of the order of discharge or
26 conditional release to the Illinois Department of State Police,

1 to the proper law enforcement agency for the municipality where
2 the offense took place, and to the sheriff of the county into
3 which the defendant is conditionally discharged. The Illinois
4 Department of State Police shall maintain a centralized record
5 of discharged or conditionally released defendants while they
6 are under court supervision for access and use of appropriate
7 law enforcement agencies.

8 (Source: P.A. 93-78, eff. 1-1-04; 93-473, eff. 8-8-03; revised
9 9-15-06.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.